

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL L. SHAKMAN, et al.,)	
)	
Plaintiffs,)	
)	Case Number: 69 C 2145
v.)	
)	Magistrate Judge Schenkier
COOK COUNTY ASSESSOR et al.,)	
)	
Defendants.)	

**INITIAL REPORT OF THE ASSESSOR COMPLIANCE ADMINISTRATOR
FOR THE COOK COUNTY ASSESSOR**

Clifford L. Meacham, Assessor Compliance Administrator for the Cook County Assessor (the “ACA”), by and through his attorney, Peter A. Monahan, pursuant to Section I.B. of the Agreed Order for the Cook County Assessor (the “Agreed Order”) submits this Initial Report as follows:

I. Introduction

In 1972, the Cook County Assessor’s Office (the “Assessor”) entered into a Consent Decree which prohibited the Assessor from “conditioning, basing or knowingly prejudicing or affecting any term or aspect of governmental employment, with respect to one who is at the time already a governmental employee, upon or because of any political reason or factor.” In 1995, the Assessor entered into a second Consent Decree which extended the 1972 Consent Decree prohibitions to include the Assessor’s hiring practices, with certain exclusions. The 1972 and 1995 Consent Decrees are collectively referred to as the “Consent Decrees.” The parties have now entered an Agreed Order requiring the Assessor’s compliance with the Consent Decrees and

to ensure that the Assessor does not base employment action decisions on political reasons or factors. This Court entered the Preliminary Order Approving the Agreed Order on August 15, 2012 and on September 19, 2012 the court entered the Agreed Order.

In order to ensure the Assessor's future compliance with the Consent Decrees and the Agreed Order, the Court appointed the Honorable Clifford L. Meacham (ret.) as Assessor Compliance Administrator ("ACA").¹ Section I.B. of the Agreed Order requires the ACA to file this Initial Report with the Court recommending: (i) additional powers the ACA should be given to carry out the ACA's duties, (ii) appropriate staff for the ACA, and (iii) mechanisms for ensuring employment actions are in compliance with the orders of this Court in this case. Also included in this Report are the ACA's updates on progress made since mid-August 2012 and the ACA's proposed next steps.

It is worth noting that the Assessor is the fifth Cook County Office to enter into a similar order and that the Compliance Administrators appointed by this Court, including Clifford Meacham, have presented proposed plans for compliance to the other elected officials. As such, the ACA sees no reason to reinvent the wheel in terms of developing and implementing transparent employment procedures and policies, adjudicating claims and training employees. Nevertheless, in order for the Assessor's Office to substantially comply with the Agreed Order, the Cook County Assessor Joseph Berrios' commitment to changing the culture of an office is imperative to ensure that employment decisions are based on merit rather than on political reasons and factors.

II. Current and Recommended Additional Powers for the ACA

¹ "ACA" hereinafter shall refer to the Assessor Compliance Administrator and/or his staff.

The Agreed Order provides that “[t]he ACA, subject to the supervision and orders of the Court, shall study the Assessor’s existing employment practices, policies and procedures for nonpolitical hiring, promotion, transfer, discipline and discharge.” Agreed Order at Section I.A. The ACA has begun gathering necessary information for evaluation by meeting with the Assessor’s Office and by requesting a number of documents from the Assessor’s Office.² In accordance with the Agreed Order, the Assessor has appointed a Liaison who has been instrumental in responding to requests to date, including document requests.³ The ACA anticipates additional documents will be produced. In addition, The ACA and Counsel have met with the Assessor’s Liaison and Counsel as well as with the assigned Assistant State’s Attorneys. The ACA’s staff will also need to meet with other members of the Assessor’s senior staff, mid-level managers and front-line employees, as well as monitor employment actions, to understand fully the current employment procedures utilized by the Assessor’s office. This process is being scheduled.

The ACA is also working with the Liaison to obtain necessary equipment to make his office fully operational. The Assessor has provided necessary hardware and software to allow the ACA to respond to inquiries and document activity. The ACA will also need to acquire licenses to a document management system, M-files, to manage the monitoring, claims adjudication and development of the Employment Plan. As with many items, the ACA is able to use the document management system currently used by other Compliance Administrators. In addition to monitoring employment actions and meeting with Assessor employees, obtaining

² The ACA circulated the First Document Request on August 27, 2012 and a subsequent Document Request on October 11, 2012.

³ The Assessor has not produced all requested documents in the two week period required in the Agreed Order, but has advised the ACA that the Office is working on completing responses to the requests.

licenses to this document management system will allow the ACA to move forward with evaluating the current employment practices and procedures and to work with the Assessor to establish a new transparent Employment Plan.

The ACA has set up a website, at shakmanassessor.com, that went live on October 12, 2012. The website provides information to the general public including, among other things, background information on the history of the Shakman case, the Pre-Agreed Order claims process, and an electronic anonymous hotline to the ACA. All relevant forms for filing Pre-Agreed Order claims of unlawful political discrimination as well as Opt-Out forms are available on the ACA's website as required by Section V.C of the Agreed Order. The ACA will post all reports to the Court on the website and, to the extent practicable and appropriate, will provide updates on the website to keep the public aware of progress made.

At this point, the ACA does not contemplate needing additional powers to perform the duties required by the Agreed Order. The ACA, however, respectfully reserves the right to seek additional powers from the Court should this become necessary.

III. Current and Recommended Additional Staff for the ACA

In addition to Counsel, the ACA has engaged one consultant and two Deputy Compliance Administrators on a part-time independent contractor basis. The ACA also anticipates hiring a part-time administrative assistant. All members of the ACA's staff⁴ have significant experience with the *Shakman* litigation and have worked for other Compliance Administrators. Capitalizing on the staff's prior experience with *Shakman* Supplemental Relief Orders will allow the ACA to fulfill his duties under the Agreed Order in the most efficient manner. Depending on the number of Pre-Agreed Order claims filed, the ACA may need additional staff. All members of the

⁴ As used herein, the term "staff" includes employees and/or independent contractors.

ACA's staff have signed Confidentiality Agreements as required by Section I.F. of the Agreed Order.

IV. Recommended Mechanisms for Ensuring Employment Actions are in Compliance with the Orders of this Court

The Agreed Order sets forth a number of mechanisms to ensure compliance with the Consent Decrees and the Agreed Order. These include (1) requiring the Assessor to hire a Director of Compliance; (2) evaluating the existing employment procedures and policies; (3) training the trainers and assisting with training Assessor employees; (4) assisting in developing an Employment Plan; (5) assisting in developing procedures for Senior Managers and Executive Assistants; (6) obtaining a new Exempt List and making recommendations as to resolving any disagreements between the parties; (7) adjudicating Pre-Agreed Order claims; and (8) monitoring Post-Agreed Order claims. Based on the ACA's past experience he believes these mechanisms will ensure future compliance with the Consent Decrees and Agreed Order. In addition, the Agreed Order required the Assessor to promulgate an Executive Order prohibiting political discrimination, to promulgate an Executive Order requiring reporting unlawful political discrimination and to enact a Whistleblower Policy protecting whistleblowers as conditions precedent to the Final Approval of the Agreed Order. Agreed Order at Paragraph 2A-2C. The preconditions to the entry of the Agreed Order were met and these mechanisms also will ensure compliance with the Consent Decrees and the Agreed Order. The ACA will recommend additional mechanisms as he evaluates the Assessor's Office.

V. Activities to Date

As mentioned above, the ACA and Counsel have met with the Assessor's Office, Counsel and Liaison a number of times. The Assessor's Counsel and Liaison provided the ACA and Counsel with an overview of the office and pledged cooperation with the ACA. The ACA

plans to meet regularly with the Liaison to ensure progress with meeting the Agreed Order requirements. The ACA and Counsel have also met with Plaintiffs' Counsel and plan to meet regularly with Plaintiffs' Counsel. The Assessor's Office has provided the ACA with some initial information relating to its operations, personnel and employment procedures including an organizational chart, a current list of employees and position titles, the current collective bargaining agreement and the personnel rules. The ACA and the Assessor's Office have also had a number of discussions regarding hiring a Director of Compliance. The Assessor has not yet posted for or filled this positions but the ACA is hopeful that the Assessor will have someone in place within the next few months.

VI. Next Steps

A. Employment Plan and Monitoring

The Agreed Order provides that:

[a]fter the ACA has actively monitored the Assessor's employment practices for sixty days, the ACA and the Parties shall negotiate, in good faith, a new employment plan ("New Employment Plan") that will govern the Assessor's employment practices, policies and procedures, including, but not limited to, nonpolitical hiring, promotion, transfer, assignment of overtime, discipline and discharge. (Agreed Order, Section II.D.)

The ACA has not started to actively monitor the employment actions in the Assessor's Office.⁵ On October 8, 2012, the ACA requested that the Assessor's Office provide 48 hour written notice of any employment action. Such actions include but are not limited to hiring, promotion, transfer, overtime, discipline (including grievance hearings) and discharge. The ACA expects to begin the active monitoring within the next few weeks and looks forward to monitoring all employment actions occurring in the Assessor's Office over the next few months. In addition,

⁵ The ACA reviewed applications for one high level position which hiring process had started prior to the ACA's appointment. The ACA found no irregularities with this hiring and shared his findings with Plaintiff's Counsel.

the ACA plans to meet with the Liaison and the Assessor's senior staff to discuss the current employment action procedures referenced in the collective bargaining agreement, personnel rules and any other documents. Once the initial active monitoring and employment action meetings are completed, the ACA will begin to work with the Assessor to develop a transparent Employment Plan.⁶

B. Director of Compliance

The Agreed Order requires that the Assessor hire a Director of Compliance to (1) oversee compliance with the Agreed Order; (2) oversee compliance with the Employment Plan; (3) maintain and review the Exempt List to ensure continued compliance; (4) take steps to eliminate, remedy and report instances of unlawful political discrimination; (5) accept complaints relating to violations of the Employment Plan; (6) implement training programs and develop training materials; and (7) work with the Assessor's employees to monitor current employment practices and provide guidance as necessary. Agreed Order at Section II.B.

Given the duties of the Director of Compliance, filling this position is essential to begin taking the steps to achieving compliance with the Agreed Order.

C. Training.

The Agreed Order provides that the ACA shall assist the Assessor's Office in establishing a "train the trainer program" for supervisors. Agreed Order at Section I.H. In addition, the Agreed Order provides that the Assessor and the ACA will train all employees to ensure a culture free from political discrimination. Agreed Order at Section II.C. Ideally, the Director of Compliance would be involved in the training. The ACA, however, believes that some training will be necessary prior to hiring the Director of Compliance. The ACA will work

⁶ A number of other Cook County offices have developed Employment Plans. The ACA intends to use these plans as a starting point for the Assessor's Employment Plan.

with the Assessor's Office to ensure that all supervisors and employees are trained and once the Director of Compliance is hired, the ACA will also work with him/her on future trainings.

D. Exempt, Senior Manager and Executive Assistant Lists

The Agreed Order also requires the Assessor to present a proposed list of Exempt, Senior Manager and Executive Assistant Positions to Plaintiffs' Counsel and that the parties are to negotiate the new lists. Agreed Order at Section II.G, II.E. and II.F. respectively. While the ACA has no defined role in the Agreed Order regarding the negotiation of these lists, the ACA is available in an advisory capacity to both parties to discuss job duties, responsibilities, and reporting structure.

E. Desk Audits.

The ACA also intends to conduct desk audits of Assessor employees to gain a better understanding of the organizational, operational and personnel structure of the office. The ACA will provide a preliminary list of employees he intends to audit and looks forward to the Assessor's Liaison assisting with scheduling.

VII. Claims of Unlawful Political Discrimination

The Agreed Order outlines two classes of potential claimants: (1) those claiming the Assessor discriminated against them by terminating them on the basis of political reasons or factors from December 6, 2010 to September 18, 2012 (the "Pre-Agreed Order claimants") and (2) those claiming the Assessor discriminated against them *for any employment action* on the basis of political reasons or factors on or after September 19, 2012 (the "Post-Agreed Order claimants"). The Post-Agreed Order claimants include any individual who claims the Assessor has retaliated against him or her for filing a claim, reporting unlawful political discrimination or whistle blowing. The ACA is charged with adjudicating the Pre-Agreed Order claims while the Director of Compliance is charged with adjudicating the Post-Agreed Order claims.

Pursuant to the Agreed Order, the Assessor was required to provide notice to all potential Pre-Agreed Order claimants, those terminated between December 6, 2010 and September 18, 2012. Agreed Order at Section IV.A. Since the ACA's appointment, the Assessor forwarded notice to 13 terminated Assessor employees. The ACA recognizes that providing notice to all potential claimants is a vital part of guaranteeing a fair claims process. Accordingly, the ACA conducted research to ensure that all potential Pre-Agreed Order claimants received notice of the Pre-Agreed Order Claims process in a timely manner.

Through the ACA's research (which included a comparison of the Assessor's employee roster on November 30, 2010 to the current employee roster provided by the Assessor to the ACA) the ACA learned of 11 additional terminated employees as well as a number of resignations, retirements, transfers and layoffs. The individuals separated from the Assessor's office since December 5, 2012 may have valid claims. A status conference is scheduled for October 23, 2012 to resolve any notice issues not resolved by the parties prior to that date. As required by the Agreed Order, the Assessor also published a Notice in the Chicago Tribune and the Sun Times advising potential claimants of the Pre-Agreed Order claims process. The ACA is working with the parties to ensure that all potential claimants are provided the required notice.

To date, the ACA has not received any Pre-Agreed Order claims or Opt-Out Requests. The deadline for submission of Pre-Agreed Order Claim Forms is October 31, 2012. In addition, the ACA has not received notice of any Post-Agreed Order claims. The ACA has circulated a draft Protective Order to the parties but has not received any comments from either party.

Conclusion

In the period between August 15, 2012 and the present, the ACA has opened and staffed an office, retained competent and experienced Counsel and staff, initiated a plan to monitor and

conduct necessary interviews and audits of employment practices, started reviewing employment policies and procedures, created a website and established a positive working relationship with the litigants and counsel. This has been done consistent with the ACA's commitment to perform all assigned duties thoroughly, fairly, promptly, and reasonably.

Respectfully submitted,

/s/ Clifford L. Meacham
Clifford L. Meacham
Assessor Compliance Administrator
69 West Washington, Suite 840
Chicago, IL 60602

/s/ Peter A. Monahan
Peter A. Monahan
Counsel to the Assessor Compliance
Administrator
69 West Washington, Suite 840
Chicago, IL 60602